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jointly without words of survivorship, the death of one of the trustees terminates the discretion, and it cannot be exercised by the survivor or survivors. *Sulphur Mines Co. v. Thompson*, 93 Va. 293, distinguished.

5. CHANCERY JURISDICTION OVER DISCRETIONARY TRUSTS—*Section 3419 of the Code*. A court of equity has no jurisdiction to interfere with a trustee in the exercise of a discretionary trust, or one of personal confidence, so long as he acts in good faith. It can neither execute it itself, nor appoint some one else to do it. Section 3419 of the Code as amended (Acts 1889-90, p. 40; Acts 1897-8, p. 687) has no application to a trust of this character.

6. TRUSTS AND TRUSTEES—*Discretionary trusts—Termination of discretion—Alternate trusts*. If the discretionary part of a trust becomes extinct, the trust becomes absolute for the alternate beneficiary, if any, and it is the duty of the trustee to proceed within a reasonable time to carry into effect the alternate provision.

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KIMBALL & FINK, RECEIVERS v. BORDEN.—Decided at Staunton, September 27, 1899. *Buchanan, J.* Absent, *Keith, P.*

1. RAILROADS—*Spark arresters—Duty of company*. It is incumbent upon a railroad company to avail itself of the best mechanical contrivances and inventions in known practical use for preventing the burning of private property by the escape of sparks and coals from its engines, and when it has done this it has performed its duty in this respect.

2. INSTRUCTIONS—*Read as a whole—Error in isolated expressions*. While an instruction of the court to the jury should be clearly expressed, and the law clearly and distinctly stated, a verdict will not be set aside because some of the expressions standing alone might be regarded as erroneous or misleading, if the instruction taken as a whole presents the law fairly and correctly, and in a manner not likely to mislead the jury.

3. RAILROADS—*Fires—Adjacent land owners—Combustible materials*. The owners of lands in the vicinity of a railroad are subject only to such risks as are necessarily incident to the proper and legitimate operation of the road by those having charge of it. The accumulation of combustible materials on the lands of the owner, in the orderly conduct of a legitimate business, if legitimate but for the existence of the railroad, cannot relieve the railroad company from liability for its own negligence.